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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,770	09/30/2003	Barrett Morris Kreiner	BS030265	4441
38516	7590	01/28/2008	EXAMINER	
SCOTT P. ZIMMERMAN, PLLC PO BOX 3822 CARY, NC 27519			WONG, ALLEN C	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/674,770	KREINER ET AL.	
	Examiner	Art Unit	
	Allen Wong	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 October 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 September 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 10/26/07 with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

In regards to the double patenting rejection, the applicant has not disagreed with the double patenting rejection. The applicant states that the assignee will promptly consider the submission of a terminal disclaimer should the case be allowed.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parnian (6,538,623) in view of Basir (US 2003/0154009).

Regarding claims 1 and 12, Parnian discloses a method and a video recorder, comprising:

a processor communicating with memory, the memory for storing video data of an event captured by a camera, the video data comprising a series of picture frames (col.9, ln.7-19, note in fig.2 the use of a CPU for processing data and communicating with memory stored in element 22, 51 and 52, and video data is captured by video camera 35a);

a buffer also storing video data of the event captured by the camera (fig.2, element 65 and col.12, ln.26-34; Parnian discloses element 65 is a video memory that takes the video image data directly from the video camera 35a via the video connection 65a); and

wherein the video recorder utilizes the buffer to provide video data preceding the event (col.11, ln.49-57 and col.12, ln.26-34, Parnian discloses element 65 is a video memory that takes the video image data directly from the video camera 35a via the video connection 65a, wherein the video data obtained by the camera can be viewed and displayed onto element 25 for viewing; col.14, ln.5-10, Parnian discloses that video data can be remotely viewed on a display monitor).

Parnian does not specifically disclose the term "loop buffer" in that the "loop buffer" storing the video data for a predetermined duration of time, after which the video data is transferred or discarded; a set of rules stored in the memory, the set of rules determining when to transfer the contents of the loop buffer into the memory; when the processor determines that the set of rules is unsatisfied, then the processor discards the contents of the loop buffer; when the processor determines that a rule is satisfied, then the processor transfers the contents of the loop buffer to the memory to provide video data that precedes the event; and the processor tags the preceding video data with metadata describing the role that caused the contents of the loop buffer to be transferred to the memory. However, Basir discloses the use of a loop buffer that stores the video data for a predetermined duration of time, after which the video data is

transferred or discarded (paragraph 0030, Basir discloses the use of a circular buffer or a loop buffer for storing video data for circuitously recording the latest video data by overwriting the oldest data, thus, data is stored for a predetermined period of time after which the data is transferred or discarded); a set of rules stored in the memory, the set of rules determining when to transfer the contents of the loop buffer into the memory (paragraph 0037-0038, Basir discloses that vehicular events and statistics are captured by the data capture module for storing a set of rules or conditions so as to permit for later retrieval of the captured data by later transferring the contents of the loop buffer); when the processor determines that the set of rules is unsatisfied, then the processor discards the contents of the loop buffer (paragraph 0036, Basir discloses that the occurrence of the "eccentric event" is the "rule" used for determining whether the contents of the loop buffer should be transferred to provide the video data preceding the event, so the converse is true, if the "rules" do not satisfy the conditions set out, ie. unsatisfied, then the data is temporarily stored in the circular or loop buffer, meaning that the oldest contents data is replaced or discarded with the newest data recorded onto the circular or loop buffer); when the processor determines that a rule is satisfied, then the processor transfers the contents of the loop buffer to the memory to provide video data that precedes the event (paragraph 0040-0041, Basir discloses that the occurrence of the "eccentric event" is the "rule" used for determining whether the contents of the loop buffer should be transferred to provide the video data preceding the event, when the "eccentric event" is triggered, then the "rule" is satisfied); and the processor tags the preceding video data with metadata describing the role that caused

the contents of the loop buffer to be transferred to the memory (paragraph 0031-0032, Basir discloses that the non-visual vehicle and occupant data, as discussed in paragraph 0034, 0038-0039 are stored as the event data, and the captured event video data is noted, recorded and thus stamped in synchronism with the non-visual vehicle and occupant data in that the video capture module utilizes "stamps" for flagging or tagging the preceding captured video data with metadata, from paragraph 0034 & 0038-0039, that describes the "rule" or occurrence of the eccentric event for causing the transference of the contents of the circular or loop buffer).

Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of Parnian and Basir, as a whole, for permitting the accurately capture the video data and conditions, as obtained by various sensors, of the event and maintain a complete record of the vehicle and its occupants prior to the event (Basir paragraph 0011).

Regarding claims 2 and 13, Parnian discloses wherein the memory comprises a mass-storage device, the mass storage device storing the video data of the event (col.11, ln. 1-6, fig.2, element 51 and 52 are used for storing video data onto mass-storage device; col.12, ln.31-34, removable magnetic disc drives can be used for mass storage for storing video data).

Regarding claims 3 and 14, Parnian discloses wherein the memory comprises an optical storage device (col.11, ln.1-6, fig.2, element 51 and 52 are used for storing video data onto mass-storage device, in that element 51 is can be a CD drive and element 52

can be a floppy disc drive; col.12, ln.31-34, removable optical magnetic disc drives can be used for mass storage for storing video data).

Regarding claim 4, Parnian discloses wherein the memory comprises a memory card (col.12, ln.34-51, element 53 is a memory flash card).

Regarding claims 5 and 15, Parnian discloses wherein the memory comprises a flash memory storage device (col.12, ln.34-51, element 53 is a flash card or flash memory storage device).

Regarding claims 6 and 16, Parnian discloses further comprising an interface to a communications network (col.13, ln.62 to col.14, ln.10, element 90 is a wireless communication module for connecting to a communication network so as to communicate with a remote base station).

Regarding claim 7, Parnian does not specifically disclose wherein the set of rules specifies vehicular data that causes a transfer of the contents of the loop buffer into the memory devices memory. However, Basir discloses wherein the set of rules specifies vehicular data that causes the transfer of the contents of the loop buffer into the memory devices memory (paragraph 0037-0038, Basir discloses that vehicular events and statistics are captured by the data capture module for storing a set of rules or conditions so as to permit for later retrieval of the captured data by later transferring the contents of the loop buffer). Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of Parnian and Basir, as a whole, for permitting the accurately capture the video data and conditions, as obtained by various sensors, of

the event and maintain a complete record of the vehicle and its occupants prior to the event (Basir paragraph 0011).

Regarding claims 8 and 17, Parnian does not specifically disclose a switch to transfer the contents of the loop buffer into the memory. However, Basir teaches the transfer of the contents of the loop buffer into the memory (paragraph 0040-0041, Basir discloses that the user trigger to trigger the transfer of the contents of the loop buffer). Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of Parnian and Basir, as a whole, for permitting the accurately capture the video data and conditions, as obtained by various sensors, of the event and maintain a complete record of the vehicle and its occupants prior to the event (Basir paragraph 0011).

Regarding claim 9, Parnian discloses the storage of audio data of the event captured by a microphone (col.15, ln.1-5, element 103 of fig.3 is the audio database for storing audio data captured by microphone, as disclosed in col.10, ln.58). Parnian does not specifically disclose the term "loop buffer". However, Basir teaches the use of the loop buffer (paragraph 0045, Basir discloses the use of a circular buffer or a loop buffer for storing audio data for circuitously recording the latest audio data by overwriting the oldest data). Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of Parnian and Basir, as a whole, for permitting the accurately capture the audio/video data and conditions, as obtained by various sensors, of the event and maintain a complete record of the vehicle and its occupants prior to the event (Basir paragraph 0011).

Regarding claims 10 and 19, Parnian does not specifically disclose further comprising an interface with a vehicle controller to transfer the contents of the loop buffer into the memory. However, Basir teaches the interface with the vehicle controller to transfer the contents of the loop buffer into the memory (paragraph 0040-0041, Basir discloses that the occurrence of the “eccentric event” is the “rule” used for determining whether the contents of the loop buffer should be transferred to provide the video data preceding the event, when the “eccentric event” is triggered, then the “rule” is satisfied, so the data contents of the loop buffer is transferred into memory). Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of Parnian and Basir, as a whole, for permitting the accurately capture the video data and conditions, as obtained by various sensors, of the event and maintain a complete record of the vehicle and its occupants prior to the event (Basir paragraph 0011).

Regarding claims 11 and 20, Parnian does not specifically disclose the means for receiving vehicular data describing powertrain management system information, electrical management system information, and chassis management system; and means for storing the set of rules specifying the vehicular data that causes the transfer of the contents of the loop buffer to the memory. However, Basir teaches the means for receiving vehicular data describing powertrain management system information (paragraph 0034, Basir discloses the data capture module ascertains the engine diagnostics and parameters and transmission status that must include powertrain data), electrical management system information (paragraph 0034, Basir discloses ascertaining “status lights”), and chassis management system (paragraph 0034, Basir

discloses ascertaining airbag data); and means for storing the set of rules specifying the vehicular data that causes the transfer of the contents of the loop buffer to the memory (paragraph 0037-0038, Basir discloses that vehicular events and statistics are captured by the data capture module for storing a set of rules or conditions so as to permit for later retrieval of the captured data by later transferring the contents of the loop buffer; paragraph 0040-0041, Basir discloses that the occurrence of the “eccentric event” is the “rule” used for determining whether the contents of the loop buffer should be transferred to provide the video data preceding the event, when the “eccentric event” is triggered, then the “rule” is satisfied). Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of Parnian and Basir, as a whole, for permitting the accurately capture the video data and conditions, as obtained by various sensors, of the event and maintain a complete record of the vehicle and its occupants prior to the event (Basir paragraph 0011).

Regarding claim 18, Parnian discloses further comprising transferring audio data of the event (col.15, ln.1-5, element 103 of fig.3 is the audio database for storing audio data captured by microphone, as disclosed in col.10, ln.58, thus, the captured audio data of the event is transferred for storage onto element 103).

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re*

Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-3, 5, 6, 8, 11-17 and 20 are provisionally rejected on the ground of nonstatutory double patenting over claims 1 and 3-7 of copending Application No. 10/674,995 in view of Basir (US 2003/0154009). This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: Claim 1 of Application No. 10/674,995 discloses "storing in memory...video data... a series of frames...", and claim 12 of the present invention discloses "storing video data...in memory... series of picture frames". Similarly, Claim 1 of Application No. 10/674,995 and claim 12 of the present invention discloses "storing...video data... in a loop buffer". Also, claim 1 of Application No. 10/674,995 discloses "storing a set of rules... causes a transfer of a contents of the loop buffer to the memory", and claim 12 of the present invention discloses "applying a set of rules to transfer the contents of the loop buffer to the memory". Although applying a set of rules is different from storing a set of rules, however, one of ordinary skill in the art needs to store a set of rules before one of ordinary skill in the art can apply a set of rules, otherwise, the set of rules cannot be implemented if the set of rules is not

previously stored. Also, claim 1 of Application No. 10/674,995 discloses "when... data satisfies a rule... then transferring the contents of the loop buffer to the memory to provide... video data preceding the event", and claim 12 of the present invention discloses "when a rule is satisfied, then transferring the contents of the loop buffer to the memory to provide video data that precedes the event". Also, claim 1 of Application No. 10/674,995 discloses "tagging... the time-delayed video data with metadata describing the rule that caused the contents of the loop buffer to be transferred to the memory", and claim 12 of the present invention discloses "tagging the preceding video data with metadata describing the rule that caused the contents of the loop buffer to be transferred to the memory".

Although the claim 1 of 10/674,995 application and claim 12 of the present invention are not exact as application No. 10/674,995 discloses audio and video, it would have been obvious to modify the application No. 10/674,995 to exclude the audio data and only process the video for arriving at the present invention.

Application 10/674,995 does not specifically disclose "the loop buffer storing the video data for a predetermined duration of time, after which the video data is transferred or discarded" and "when the processor determines that the set of rules is unsatisfied, then the processor discards the contents of the loop buffer". However, Basir teaches the loop buffer storing the video data for a predetermined duration of time, after which the video data is transferred or discarded (paragraph 0030, Basir discloses the use of a circular buffer or a loop buffer for storing video data for circuitously recording the latest video data by overwriting the oldest data, thus, data is stored for a predetermined period

of time after which the data is transferred or discarded), and when the processor determines that the set of rules is unsatisfied, then the processor discards the contents of the loop buffer (paragraph 0036, Basir discloses that the occurrence of the "eccentric event" is the "rule" used for determining whether the contents of the loop buffer should be transferred to provide the video data preceding the event, so the converse is true, if the "rules" do not satisfy the conditions set out, ie. unsatisfied, then the data is temporarily stored in the circular or loop buffer, meaning that the oldest contents data is replaced or discarded with the newest data recorded onto the circular or loop buffer).

Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of Parnian and Basir, as a whole, for permitting the accurately capture the video data and conditions, as obtained by various sensors, of the event and maintain a complete record of the vehicle and its occupants prior to the event (Basir paragraph 0011).

Since claim 1 of the present invention is similar to claim 12 of the present invention, then claim 1 of the present invention is also provisionally rejected on the ground of nonstatutory double patenting over claim 1 of copending Application No. 10/674,995 in view of Basir (US 2003/0154009) for similar reasons as stated above for claim 12 of the present invention.

Both claim 3 of Application No. 10/674,995 and claim 13 of the present invention disclose "transferring the contents of the loop buffer to a mass storage".

Both claim 4 of Application No. 10/674,995 and claim 14 of the present invention disclose "transferring the contents of the loop buffer to an optical storage device".

Both claim 5 of Application No. 10/674,995 and claim 15 of the present invention disclose "transferring the contents of the loop buffer to a flash memory storage device".

Both claim 6 of Application No. 10/674,995 and claim 16 of the present invention disclose "...contents of the loop buffer via a communications network".

Claim 7 of Application No. 10/674,995 disclose "a switch" to transfer contents.

Claim 17 of the present invention disclose "a switch to transfer video data".

Similarly, claim 2 of the present invention is analyzed and met for the same reasons as claim 13 of the present invention.

Claim 3 of the present invention is analyzed and met for the same reasons as claim 14 of the present invention.

Claim 5 of the present invention is analyzed and met for the same reasons as claim 15 of the present invention.

Claim 6 of the present invention is analyzed and met for the same reasons as claim 16 of the present invention.

Claim 8 of the present invention is analyzed and met for the same reasons as claim 17 of the present invention.

Claims 11 and 20 of the present invention disclose "receiving vehicular data describing powertrain management system information, electrical management system information, and chassis management system" and "storing the set of rules specifying the vehicular data that causes the transfer of the contents of the loop buffer to the memory". Claim 1 of Application No. 10/674,995 disclose "receiving vehicular data describing powertrain management system information, electrical management system

information, and chassis management system" and "storing a set of rules specifying the vehicular data that causes a transfer of a contents of the loop buffer to the memory". Thus, claim 1 of US '995 application meets the limitations of claims 11 and 20 of the present invention.

Conclusion

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allen Wong whose telephone number is (571) 272-7341.

The examiner can normally be reached on Mondays to Thursdays from 8am-6pm Flextime.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Allen Wong
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AW
1/22/08